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# WILLARD

## THE GATEWAY

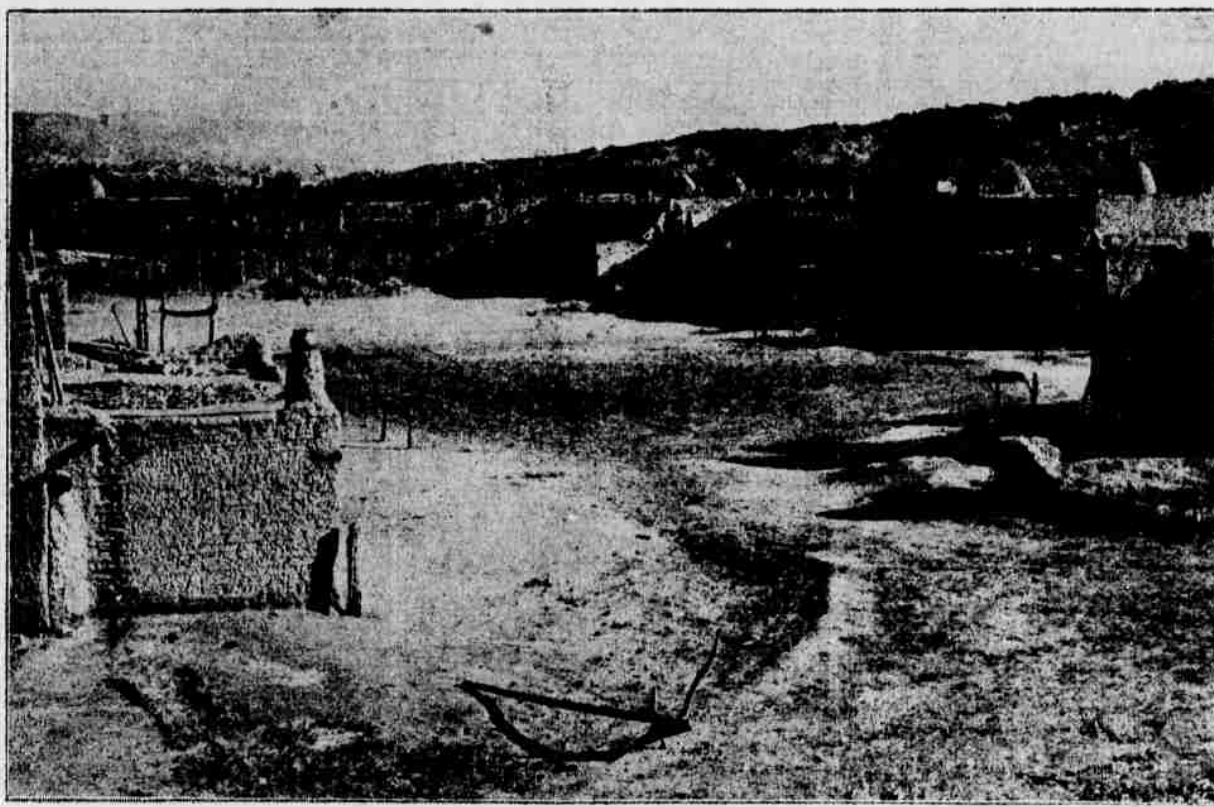
Which has all the things necessary for the building of a good, substantial town, including water of good quality, abundant in quantity at a depth of 36 feet below the surface, located in and tributary to the finest section of grazing country in the Southwest with agriculture in its infancy; as fine an all around climate as there is in the world, with a pushing, energetic class of citizens and two railroads, one the new A. T. & S. F. Short Line to the Pacific. Willard has made a most phenomenal growth and the price of lots will soon advance. Better come now. The townsite is owned by

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WILBUR A. DUNLAVY, Vice Pres.  
LOUIS C. BECKER, Treasurer.



On the Way to Cliff Dwellings.—Tesuque Pueblo.

## LAND TANGLE UNRAVELED

### Proposed Legislation Regarding Leases.

### GRAZING PERMITS CANCELED

### Governor Hagerman Secures Favorable Action by House Committee.

Governor Herbert J. Hagerman during his stay in the National Capital last week, succeeded in securing from the House committee on public lands a favorable report upon a bill to amend the U. S. statute of 1898, making certain grants of public land of the Territory of New Mexico for its public institutions and which limited the area that could be leased by the Territory to individuals, firms or associations to 640 acres each, the amendment providing that a larger area may be leased "when in the opinion of the Secretary of the Interior the leasing of a larger area is deemed advisable." The passage of this bill, will enable the Territory to secure revenue from 400,000 and more acres of territorial lands which otherwise, in greater part, would lie for many years as public range from which no revenue could be derived.

#### Territorial Legislation.

The U. S. statute of 1898 is very explicit in its provision that no more than 640 acres shall be leased to any one person, corporation or association of firms, but the New Mexico Legislative Assembly of 1901, sought to circumvent this statute by passing a law which among other provisions, provides: "The commissioner shall also have authority to grant the right of pasturage upon such amount of unleased land as he may determine for the best interests of the Territory, for a period not to exceed five years and not less than two cents per acre." This was superseded by an act of the legislature of 1905, which provides: "The board shall have the right to grant the right of pasturage upon such amount of unleased lands as it may in each instance determine, for a period not to exceed five years, at not less than two cents per annum per acre." The act also permitted the fencing of such tracts as might be leased and the removal of such fences by the lessee when the lease had expired. In other words, to overcome the federal statute prohibiting leases on more than 640 acres to each applicant and providing that the approval of the Secretary of the Interior was necessary for each lease, the legislature authorized the territorial land commission to grant grazing permits on territorial lands without limit as far as area is concerned.

#### Grazing Permits Issued.

Under this territorial provision, grazing permits were granted to the following for the following areas:

A. R. Burkholder 49,511 acres; Charles L. Ballard 37,622 acres; R. S. Benson 42,765 acres; J. M. Cunningham 28,069 acres; H. N. Porter 24,688 acres;

W. H. Greer 23,648 acres; H. L. Newman, Jr., 21,961 acres; J. H. Charles 20,901 acres; Francis Divers 19,993 acres; O. M. Lee 19,945 acres; Nannie Horn 19,825 acres; R. A. Morris 18,110 acres; E. S. Pennebaker 10,869 acres; Frank Springer 8,893 acres; Frank A. Hubbell 5,643 acres; W. H. Jack 2,680 acres; M. T. Stone 2,400 acres; Smith and Biting 2,040 acres; W. K. Irwin 1,440 acres and Ada M. Waller 1,282 acres, from which an annual revenue of \$11,158.49 was derived. These permits were granted between the dates of December 2, 1901, to February 6, 1905, and were made under the territorial statutes drafted originally by the late Edward L. Bartlett, then solicitor general of the Territory.

#### Department of Interior Takes Notice.

The attention of the Department of the Interior was drawn to these permits by a letter of J. M. Kuehn of Chama, Rio Arriba County, who complained that certain permits given R. A. Morris, covered improvements made by Kuehn prior to the selection of the land for the Territory. This opened the entire question, for the Department of the Interior found that the territorial permit to Morris had not been submitted to the Secretary of the Interior for approval and that it covered more than 640 acres.

#### Long Explanations.

The correspondence that resulted upon this matter between the general land office, the Secretary of the Interior and the office of the attorney general on one side, and Land Commissioner A. A. Keen and Governor M. A. Otero on the other, went fully into the reasons of the Territory for evading the provisions of the federal statute and the authority under which it was done by the territorial land commission. These were succinctly set forth as follows:

New Mexico is not an agricultural country. It is not even what the people of other States and Territories would call a grazing country. Hundreds and hundreds of thousands of acres of its lands are so high and dry that, although of the most productive soil, they are practically worthless until climatic changes take place or the time arrives when they can be watered by irrigation processes. Again, the conditions applying peculiarly to New Mexico and those of its people should be borne in mind and not lost sight of, for to deprive the Territory of the right it is exercising in issuing these permits to obtain meager support for its several institutions and for the advancement of irrigation projects would be to deprive these institutions of their very right of existence; and not alone would it affect the institutions, but the Territory itself, working in an incomparable hardship and one that could never be overcome.

School sections 16 and 36 were granted to the Territory by act of Congress of June 21, 1898, for leasing purposes only, for the benefit of the public school fund, and providing therein that not more than one section shall be leased to any one person, etc., while the balance of the grant of Congress, for institutional purposes, was required to be selected, and, after the selection and approval of the Secretary of the Interior title passed to the Territory. These selections were made in large tracts, covering what is known as strictly grazing lands, and the only method by which we can at the present time obtain immediate revenue from these large tracts of grazing land is by the issuing of temporary permits for the right of pasturage to stock men for grazing purposes solely.

Applicants who apply to lease sections 16 and 36 do so for the purpose

of covering water or other considerations that may be located on such sections, and as a result they control, without compensation therefor, large tracts of land contiguous thereto for grazing purposes.

Sections 16 and 36 within our Territory limits approximate a little over 5,000 sections, not including those within land grants and reservations, and of these school sections we have only been able to lease in the past five years about 1,500 sections, covering an area of about 900,000 acres and producing a revenue in the past five years of about \$90,000, while the area covered by permits for the right of pasturage is 361,423.49 acres, producing an annual rental of \$11,158.49.

In the issuing of these permits for the right of pasturage on unleased lands it is not the intention, nor are they allowed, to obstruct or interfere in any manner with bona fide settlers making settlements, and only in one case have they even appeared to do so; and that incident is questionable, as set forth in my letter of April 14, 1905. That party, if acting in good faith, can apply to the United States Land Office, make proof of his intent to make homestead entry on the lands selected on behalf of the Territory, and obtain his just rights. This has been the policy of the Territory in every case in treating with homesteaders whose lands have been covered by approved Territorial selections.

Had the legislature not granted the right to issue temporary permits for the right of pasturage on these unleased lands, there would have been created a Territorial public domain, from which we could not have derived any revenue, and these lands would have been used in like manner as the public domain, but without the restrictions or protection provided for the Federal public domain, which is constantly protected by special agents of the Interior Department.

#### Permits Cancelled.

Nevertheless, the Department of the Interior declared these permits illegal and ordered them cancelled for reasons set forth by Assistant Attorney General Frank I. Campbell as follows:

"It appears from certain correspondence relative to this matter between the commissioner of the general land office and the commissioner of public lands for the Territory, and from copies of some of these permits submitted therewith, that grazing lands granted to the Territory, as aforesaid, are being occupied in large bodies under authority of these permits, none of which, it seems, were submitted to the Secretary of the Interior for his approval; and it is further suggested that the proceeds arising from these permits are not being invested in securities with the approval of the secretary, at all, but are being used for the support of the public land board.

"I am of the opinion that these permits for the purpose of avoiding the provisions with reference to leasing these lands found in the granting act, supra. This is substantially admitted it being urged, that the necessities and best interests of the Territory undertake to authorize the occupation, or association of persons, they are in violation of both the letter and spirit of the granting act, supra, and therefore null and void. It is also clear that if otherwise valid they are without force and effect, unless they have been submitted to and approved by the Secretary of the Interior. I advise you that these permits or leases should be submitted to the Secretary of the Interior for his approval, and that such ap-

(Continued on Page Six.)

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